

Message Text

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ORIGIN EB-08

INFO OCT-01 ARA-14 EUR-12 EA-12 NEA-10 IO-14 ISO-00
L-03 JUSE-00 SIG-03 TRSE-00 AID-05 CEA-01 CIAE-00
COME-00 FRB-01 INR-10 NSAE-00 ICA-20 OPIC-06
SP-02 LAB-04 SIL-01 AGRE-00 OMB-01 SS-15 H-02
/145 R

DRAFTED BY EB/OT/STA:C H BLUM:CMS
APPROVED BY EB/OT/STA:J S SPIRO
L/EB:S BENSON (INFO)
JUSTICE:R ALLEN
EA/J:D BROWN

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R 272153Z APR 78
FM SECSTATE WASHDC
TO AMEMBASSY TOKYO
INFO AMEMBASSY BERN
AMEMBASSY BONN
AMEMBASSY BRASILIA
AMEMBASSY BRUSSELS
AMEMBASSY CANBERRA
AMEMBASSY COPENHAGEN
AMEMBASSY DUBLIN
USMISSION GENEVA
AMEMBASSY HELSINKI
AMEMBASSY LISBON
AMEMBASSY LONDON
AMEMBASSY LUXEMBOURG
AMEMBASSY MADRID
AMEMBASSY MEXICO
AMEMBASSY NEW DELHI
AMEMBASSY OSLO
AMEMBASSY OTTAWA
AMEMBASSY PARIS
AMEMBASSY ROME
AMEMBASSY SEOUL
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AMEMBASSY STOCKHOLM
AMEMBASSY TAIPEI
AMEMBASSY THE HAGUE
USMISSION USUN NEW YORK
AMEMBASSY VIENNA
AMEMBASSY WELLINGTON

UNCLAS STATE 108000

USOECN ALSO FOR EMBASSY, USEEC ALSO FOR EMBASSY

E.O. 11652: N/A

TAGS:ETRD, US, JA

SUBJECT: SUPREME COURT HEARS ZENITH CASE

REF: 77 STATE 249304

1. SUPREME COURT HEARD ORAL ARGUMENTS APRIL 25-26 IN THE ZENITH CASE, IN WHICH COURT IS REVIEWING JULY 28, 1977, APPEALS COURT DECISION UPHOLDING THE TREASURY'S INTERPRETATION OF COUNTERVAILING DUTY LAW. ISSUES BEFORE THE COURT WERE SUMMARIZED IN REFTEL. CASE FOR ZENITH WAS ARGUED BY FRED IKENSON, A WASHINGTON LAWYER; SOLICITOR GENERAL WADE MCCREE ARGUED FOR USG. COURT IS EXPECTED TO ISSUE ITS RULING BY END OF JUNE.

2. JUSTICE BLACKMUN CITED FOLLOWING STATEMENT IN DIPLOMATIC NOTE FROM JAPANESE EMBASSY THAT WAS CIRCULATED TO COURT AT JAPANESE REQUEST: "IN THE UNLIKELY EVENT THAT THE UNITED STATES SHOULD PROCEED IN A MANNER VIOLATIVE OF THE VERY INTERNATIONAL RULES IN THE ESTABLISHMENT OF WHICH UNCLASSIFIED

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IT HAS TAKEN LEADERSHIP TO FURTHER THE OBJECTIVE OF FREER INTERNATIONAL TRADE, THOSE COUNTRIES WHO JOINED WITH THE UNITED STATES IN ESTABLISHING SUCH RULES TO PROMOTE ECONOMIC DEVELOPMENT THROUGH NORMALIZATION OF INTERNATIONAL

TRADE MIGHT BE COMPELLED TO QUESTION THE GOOD FAITH OF THE UNITED STATES." BLACKMUN ASKED MCCREE WHETHER THE JAPANESE WERE THREATENING THE COURT WITH THIS LANGUAGE. MCCREE RESPONDED THAT THE NOTE WAS NOT A THREAT TO THE COURT AND WAS CIRCULATED "FOR WHAT IT WAS WORTH." MCCREE ADDED: "THE COURT SHOULD NOT BE RESPONSIVE TO THE THREAT OF APOCALYPTIC CONSEQUENCES" (OF ITS DECISION). THE QUESTION BEFORE THE COURT, HE NOTED, IS THE MEANING THAT CONGRESS INTENDED TO GIVE TO THE TERM "BOUNTY OR GRANT" USED IN CVD STATUTE. VANCE

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